

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, JUNE 13, 2006

The Council of the City of San José convened in regular session at 9:30 a.m. in the Mayor's Conference Room T1841, at City Hall.

Present: Council Members - Campos, Chavez, Chirco, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:33 a.m. to a Closed Session in Room T1841, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: (1) In re Avila; (2) County of Santa Clara, et al., v. City of San José, et al.; (3) Y.K.A. Industries, Inc. v. City of San José, et al.; (4) The San José Charter of the Hells Angels Motorcycle Club, et al. v. City of San José; (5) City of San José v. Operating Engineers Local Union 3, et al; (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, anticipated litigation, Subsection (c) with respect to significant exposure in one (1) matter; and (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager designee Alex Gurza; Employee Organizations: (1) Operating Engineers, Local 3.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:30 a.m. and reconvened at 1:33 p.m. in the Council Chambers.

Present: Council Members - Campos, Chavez, Chirco, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - None.

INVOCATION

Hank LeBeau and the Indian Health Center Drum Group. (District 6)

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle, and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (11-0.)

CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation declaring June 14, 2006 as “American Flag Day” in the City of San José. (LeZotte/Cortese/Chirco/Mayor)
(Rules Committee referral 5/31/06)**

Action: Mayor Gonzales, Vice Mayor Chavez and the Council Members recognized June 14, 2006 as “American Flag Day” in the City of San José.

- 1.2 Presentation of commendations to Stephanie Shine Austin, Martha Wendt Cirata, Pamela Dumond and Vivian Tracy Karpel for their dedicated service to the students at Anderson Village Elementary School and the Moreland School District. (LeZotte)
(Rules Committee referral 5/31/06)**

Action: Mayor Gonzales and Council Member LeZotte recognized and commended the following teachers upon their retirement: Ms. Austin, Ms. Cirata, Ms. Dumond and Ms. Karpel, for their dedicated service to the students of Anderson Village Elementary School and the Moreland School District.

- 1.3 Presentation of commendations to Christina Liu, Steven Lee, Aileen Chen, Christie Cho, Prajakta Jaju, Chen Wang, Eddie Wen and John Zhu for their commitment to the youth in West San José as members of the Council District 1 Youth Advisory Council. (LeZotte)
(Rules Committee referral 5/31/06)**

Action: Mayor Gonzales and Council Member LeZotte recognized and commended the members of the Youth Advisory Commission for Council District 1.

- 1.4 Presentation of a commendation to Nha Magazine for winning the Vietnamese American Media Expo Media Excellence Award for “Best in Design”. (Nguyen)
(Rules Committee referral 5/31/06)**

Action: Mayor Gonzales and Council Member Nguyen recognized and commended Nha Magazine for its achievements.

- 1.7 Presentation of commendations to the Archbishop Mitty Softball Team and Megan Wirth for winning the team's second consecutive Division II Title and the School's sixth California Interscholastic Federation Central Coast Section Title. (LeZotte) (Rules Committee referral 6/7/06)**

Action: Mayor Gonzales and Council Member LeZotte recognized and commended the Archbishop Mitty Softball Team and Megan Wirth.

- 1.8 Presentation of a commendation to Mark Martinez for his outstanding service to Christmas in the Park on the occasion of being named "Student Volunteer of the Year". (Yeager) (Rules Committee referral 6/7/06)**

Action: Mayor Gonzales and Council Member Yeager recognized and commended Mark Martinez for his outstanding efforts and dedication to the community.

CONSENT CALENDAR

Upon motion by Council Member Pyle, seconded by Council Member Cortese, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)

- 2.3 Approval to exercise a second one-year option to extend the agreement with Barnestorming Advertising and Marketing Communications, to conduct marketing communications and customer service consulting services for the Norman Y. Mineta San José International Airport for the period of July 1, 2006 through June 30, 2007, and provide compensation of \$185,000 within the original not to exceed contract amount of \$740,000. CEQA: Resolution Nos. 67380 and 71451, PP 06-081. (Airport)**

Documents Filed: Memorandum from Director of Aviation Sherry, dated May 22, 2006, recommending approval of the second one-year option to the agreement.

Action: The authorization to exercise a second one-year option to extend said agreement Barnestorming Advertising and Marketing Communications was approved. (11-0).

- 2.4 Approval, as recommended by the Parks and Recreation Commission, to name a new dog park located at the intersection of Delmas and Park Avenues as "Discovery Dog Park." (City Clerk)**

Documents Filed: Memorandum from City Clerk Price, dated May 22, 2006, forwarding the recommendation of the Parks and Recreation Commission to name a new dog park.

Action: The recommendation of the Parks and Recommendation to name the new dog park "Discovery Dog Park", was approved. (11-0).

2.5 Approval of fiscal actions for Redevelopment Agency Capital Projects.

- (a) Adoption of the following 2005-2006 appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):**
 - (1) Increase the estimate for Earned Revenue by \$298,000.**
 - (2) Establish an appropriation to the Department of Public Works for the Backesto Park Perimeter Pedestrian Streetlight Project (PSM #450) in the amount of \$298,000.**
- (b) Adoption of the following 2005-2006 appropriation ordinance and funding sources resolution amendments in the General Fund:**
 - (1) Increase the estimate for Revenue from Local Agencies by \$37,106.**
 - (2) Increase the appropriation to the Department of Planning, Building and Code Enforcement Personal Services for the PBCE Code Enforcement Positions to Support the Strong Neighborhoods Initiative FY2005-2006 Project (PSM #439, amendment 1) in the amount of \$37,106.**
- (c) Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Backesto Park Perimeter Pedestrian Streetlight Project as more specifically described in the memorandum from the Redevelopment Agency, dated May 9, 2006.**

CEQA: Not a Project. Council District 3. SNI: 13th Street. (City Manager's Office)

Documents Filed: Memorandum from Budget Director Lisenbee, dated May 21, 2006, recommending adoption of the amendments and resolutions.

Action: [Ordinance No. 27771](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the Services for Redevelopment Capital Projects Fund for the Backesto Park Perimeter Pedestrian Streetlight Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; [Ordinance No. 27772](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the General Fund for the Department of Planning, Building and Code Enforcement Personal Services; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; and [Resolution No. 73200](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72762 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2005-2006 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund"; [Resolution No. 73201](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72762 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2005-2006 to Adjust Revenues in the General Fund"; and [Resolution No. 73202](#), entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the 13th Street Neighborhood in the Strong Neighborhoods Initiative Redevelopment Project Area", were adopted. (11-0).

- 2.6 Approval of the second amendment to the Operation Agreement between the City of San José and the History Museums of San José (now History San José) to modify the operations payment, clarify the responsibilities of the parties in connection with Kelley Park Parking Lot K-4, and make certain other technical changes. CEQA: Not a Project. (City Manager's Office)**

Documents Filed: Memorandum from Deputy City Manager Winer, dated May 22, 2006, recommending approval of the second amendment to the Operation Agreement.

Action: The second amendment to the Operation Agreement between the City of San José and the History Museums of San José (now History San José), was approved. (11-0).

- 2.7 Approval to award a contract for the Water Valve Rehabilitation Project.**
- (a) Approval to award a contract for the Water Valve Rehabilitation Project to San José Water Company in the amount of \$339,684.60.**
 - (b) Adoption of the following appropriation ordinance amendments in the Water Utility Capital Fund:**
 - (1) Increase the appropriation for the Water Valve Rehabilitation Project by \$130,000.**
 - (2) Decrease the Ending Fund Balance by \$130,000.**
- CEQA: Not a Project. (City Manager's Office/Environmental Services)**

Documents Filed: (1) Memorandum from Budget Director Lisenbee and Director of Environmental Services Stufflebean, dated May 22, 2006, recommending award of the contract and adoption of the appropriation ordinance amendments. (2) Letter from Patricia Mahan, Chairperson of the Treatment Plant Advisory Committee, dated June 5, 2006, recommending award of contract and adoption of the appropriation ordinance amendments.

Action: The award of the contract to San José Water Company was approved, and [Ordinance No. 27773](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Monies in the Water Utility Capital Fund for the Water Valve Rehabilitation Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; was adopted. (11-0).

- 2.8 Approval to purchase the CAL-ID Program Phase III Photo Database Project for the Police Department.**
- (a) Adoption of a resolution to accept SB 720 funds from the County of Santa Clara in the amount of \$1,810,317;**
 - (b) Adoption of the following appropriation ordinance and funding sources resolution amendments:**
 - (1) Increase the estimate of Revenue from Local Agencies in the General Fund by \$1,810,317; and**
 - (2) Establish an Automated Fingerprint Identification System, Phase III appropriation to the Police Department in the General Fund in the amount of \$1,810,317.**

2.8 (Cont'd.)

(c) Adoption of a resolution authorizing the Director of Finance to:

- (1) Execute an agreement for the sole source purchase of software and hardware for Phase III of existing Automated Fingerprint Identification System (AFIS) upgrade to the CAL-ID program with DataWorks Plus LLC ("DataWorks"), located in Greenville, South Carolina in the amount of \$1,641,080.48 including sales tax, installation, initial warranty and training.
- (2) Execute change orders to the agreement in the amount not to exceed \$169,236.02 for any additional, unanticipated requirements encountered during the implementation process or this project.
- (3) Execute four additional one-year options to renew the annual maintenance without further Council action other than the appropriation of funds.

CEQA: Not a Project. (City Manager's Office/Finance)

Documents Filed: Memorandum from Director of Finance Johnson and Budget Director Lisenbee, dated May 22, 2006, recommending approval of actions required to purchase the CAL-ID Program Phase III Photo Database Project for the Police Department.

Action: [Resolution No. 73203](#), entitled: "A Resolution of the Council of the City of San José Accepting SB 720 Funds From the County of Santa Clara in the Amount of \$1,810,317"; [Ordinance No. 27774](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Monies in the General Fund for the Automated Fingerprint Identification System; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; [Resolution No. 73204](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72762 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2005-2006 to Adjust Revenues in the General Fund" and [Resolution No. 73205](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement for the Sole Source Purchase of Software and Hardware for Phase III of Existing Automated Fingerprint Identification System (AFIS) Upgrade with DataWorks Plus LLC", were adopted. (11-0).

2.9 Adoption of a resolution authorizing the City Manager to execute amendments to three agreements with Managed Health Network (MHN) and extending the term of the agreements by one year to June 30, 2007 to provide the following services in a total budgeted amount of \$835,000 for FY2006-2007:

- (a) Sworn Employee Assistance Program - \$610,000
- (b) Non-Sworn Employee Assistance Program - \$210,000
- (c) Critical Incident Stress Management Services - \$15,000

CEQA: Not a Project. (Employee Services)

Documents Filed: Memorandum from Director of Employee Services Danaj, dated June 2, 2006, recommending adoption of the resolution.

2.9 (Cont'd.)

Action: [Resolution No. 73206](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Amendments to Agreements with Managed Health Network (MHN) for Employee Assistance Program Services in a Total Budgeted Amount of \$835,000 for Fiscal Year 2006-2006", was adopted. (11-0).

2.10 **Report on bids and award of contract for Part 1; and rejection of bids for Part 2 of the design-build project entitled, "San José/Santa Clara Water Pollution Control Plant, Fiscal Year 2005-2006 Capital Improvement Program, Reliability Improvement for Switchgear S2/S2A & M3/M4 Project," to the sole bidder, Rosendin Electric, Inc., in the amount of \$609,400; and approval of a budget contingency in the amount of \$60,000. CEQA: Exempt, PP4-03-079. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services Stufflebean, dated May 22, 2006, recommending award of the contract and approval of a budget contingency. (2) Letter from Patricia Mahan, Chairperson of the Treatment Plant Advisory Committee, dated June 5, 2006, recommending award of the contract and approval of a budget contingency.

Action: The award of the contract for Part 1, and rejection of bids for Part 2 of the design-build project to the sole bidder, Rosendin Electric, Inc., with specified contingency, was approved. (11-0).

2.11 **Report on bids and approval of the award for the purchase of eight (8) unmarked Public Safety vehicles from Courtesy Chevrolet, the low bidder, in an amount not to exceed \$137,208.61, including tax and fees, and authorization to the Director of Finance to execute the purchase order. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Johnson, dated May 22, 2006, recommending approval of the award to purchase eight vehicles.

Action: The award of said purchase of Public Safety vehicles from Courtesy Chevrolet, the low bidder, as specified, was approved. (11-0).

2.12 **Approval to award a contract to expand Wireless Internet Systems in the Downtown.**

Adoption of a resolution authorizing the Director of Finance to:

- (a) **Execute an agreement with MetroFi (Mountain View, CA) for the implementation and maintenance of a wireless network covering a portion of downtown San José area for five years at no cost to the City subject to an early termination fee in the event that the City elects to terminate the agreement without cause within the first five years.**
- (b) **Execute two, five year options to renew the agreement without further Council approval.**

2.12 (Cont'd.)

- (c) **Execute change orders in an amount not to exceed \$100,000 in the event additional enhanced services are required.**
- (d) **Execute additional change orders for network capacity or capability that the City may require, without further Council action other than the appropriation of funds.**

CEQA: Exempt, File No. PP 06-094. Council District 3. (Finance)
Resolution No. 73207 adopted, as amended.

Documents Filed: (1) Memorandum from Director of Finance Johnson, dated May 22, 2006, recommending adoption of the resolution. (2) Supplemental memorandum from Director of Finance Johnson, dated June 9, 2006, transmitting addition information and providing a detailed map.

This item was pulled from the Consent Calendar for public comment.

Public Comments: Derek Wise, GNI, spoke in opposition to the contract award and asked the Council to consider choosing a second candidate in the event that the one chosen defaults. Deputy Director of Finance Walter Rossman explained the selection process.

Council discussion ensued.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and carried unanimously, [Resolution No. 73207](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with Metrofi (Mountain View, CA) for the Implementation and Maintenance of a Wireless Network Covering a Portion of Downtown San José", was adopted, and Staff was requested to return to Council in the event negotiations are not successful. Staff also directed to return to Council with renewal options and more information about plans to provide Wifi to other City facilities and areas outside of the downtown. (11-0).

2.13 **Approval for the Director of Finance to issue a Citywide vending machines solicitation which will include at least 50% healthy food and drink choices for vending machines located throughout the City, with the exception of vending machines located in City Libraries that shall contain 100% healthy food and drink choices. CEQA: Not a Project. (Finance)**

Documents Filed: (1) Memorandum from Director of Finance Johnson, dated May 31, 2006, recommending authorization to issue a Citywide vending machines solicitation. (2) Memorandum from Council Member Yeager, dated June 12, 2006, recommending approval of the Staff recommendation; additionally, recommending further direction to Staff to include in the solicitation the specification that vending machines located in areas predominantly frequented by children, such as community centers, include primarily healthy food and drink choices; additionally, recommending direction to the Director of Finance to report annually to the City Council on the status of the City's vending machine program, with the aim of expanding the healthy food and drink choices to greater than 50% to further encourage healthy eating habits.

2.13 (Cont'd.)

Public Comments: Marjorie Freedman, San José State University, and Bonnie Broderick, Healthy Silicon Valley, spoke in support of the proposed actions.

This item was pulled from the Consent Calendar for discussion by Council Member Yeager, who moved approval of his memorandum dated June 12, 2006.

Council discussion followed.

Council Member Cortese asked Staff if they had analyzed energy costs versus revenue earned. Staff indicated this information was not analyzed; however, concluded preference could be made for energy efficient vending machines, if available.

Action: Upon motion by Council Yeager, seconded by Vice Mayor Chavez, and unanimously carried, the Staff recommendation was approved, with the additional direction in his memorandum that Staff: (1) Include in the solicitation the specification that vending machines located in area predominantly frequented by children, such as community centers, include primarily healthy food and drink choices; (2) Report annually to the Council on the status of the City's vending machine program, with the aim of expanding the healthy food and drink choices to greater than 50% to encourage healthy eating habits; (3) Include in the RFQ a preference for energy efficient vending machines. (10-1. Noes: Cortese.)

2.14 **Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2005-2006 #18 and authorization for the Director of Finance to execute the purchase orders. CEQA: See Administration's Memo to Council for specific CEQA clearance determinations on each recommended action. (Finance)**

Documents Filed: Memorandum from Director of Finance Johnson, dated May 22, 2006, recommending approval of the award.

Action: The award of open purchase orders for List #18 for FY 2005-2006 was approved. (11-0).

2.15 **Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement between the City of San José and the Wildlife Center of Silicon Valley for the care and treatment of wildlife taken to the Wildlife Center on behalf of San José and the cities that receive animal care services from San José, for the period of July 1, 2006 through June 30, 2009, for an amount not to exceed \$251,262. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Acting Director of Parks, Recreation and Neighborhood Services Balagso, dated May 22, 2006, recommending adoption of the resolution.

2.15 (Cont'd.)

Action: [Resolution No. 73208](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the Wildlife Center of Silicon Valley for the Care and Treatment of Wildlife Taken to the Wildlife Center in an Amount Not To Exceed \$83,754 Per Year, or \$251,262 for the Entire Three-Year Term", was approved. (11-0).

2.16 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the City of Milpitas to provide the City of Milpitas with animal care services from the City of San José Animal Care and Services Division of the Parks, Recreation and Neighborhood Services Department, for the period of July 1, 2006 through June 30, 2009, with a total amount of \$624,541 to be paid to the City of San José. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

Documents Filed: Acting Director of Parks, Recreation and Neighborhood Services Balagso, dated May 22, 2006, recommending adoption of the resolution.

Action: [Resolution No. 73209](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement With the City of Milpitas to Provide Animal Control Services to the City of Milpitas for the Period of July 1, 2006 Through June 30, 2009, With a Total Amount of \$624,541 to be Paid to the City of San José", was adopted. (11-0).

2.17 Adoption of a resolution initiating proceedings and setting June 27, 2006 at 1:30 p.m. for Council consideration on the reorganization of territory designated as Bascom No. 38 which involves the annexation to the City of San José of 0.23 acres of land more or less, located at the west side of Ciro Avenue approximately 400 feet south of Forest Avenue and adjacent to the City of San José annexations Bascom Nos. 20, 37, 33 and 35 and the detachment of the same from West Valley Sanitation, County Lighting County Service, Central Fire Protection and area No. 1 (Library services) County Service Districts. CEQA: Mitigated Negative Declaration adopted March 6, 2006, File No. C05-121. Council District 6. SNI: Burbank/Del Monte. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated May 16, 2006, recommending adoption of the resolution.

Action: [Resolution No. 73210](#), entitled: "A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Bascom No. 38 Described Herein and Setting the Date, Time and Place for Consideration of Such Reorganization", was adopted. (11-0).

- 2.18 Adoption of a resolution of intention to vacate a portion of Park Avenue, located along the northerly side and approximately 55 feet east of Laurel Grove Lane, and setting a public hearing on August 8, 2006 at 1:30 p.m. CEQA: Mitigated Negative Declaration, PDC05-037. Council District 6. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Allen, dated May 22, 2006, recommending adoption of the resolution.

Action: [Resolution No. 73211](#), entitled: "A Resolution of the Council of the City of San José Setting a Public Hearing to Consider Whether to Vacate a Portion of Park Avenue Located 55 Feet East of Laurel Grove Lane With Reservation of a Public Service Easement", was adopted. (11-0).

- 2.19 Approval of master agreements for engineering services for storm pump stations.**

- (a) Approval of a consultant master agreement with Schaaf & Wheeler Consulting Civil Engineers, for consultant services including engineering services for the rehabilitation of storm pump stations and an analysis of Alviso sub-watershed areas, for the period from the date of execution through December 31, 2010, in a total amount not to exceed \$400,000. CEQA: Not a Project. (Public Works)**
- (b) Approval of a consultant master agreement with OC Consultants, dba as Olivia Chen Consultants, for consultant services including engineering services for the rehabilitation of storm pump stations and the analysis of various storm drain sub-watershed areas, for the period from the date of execution through December 31, 2010, in a total amount not to exceed \$400,000. CEQA: Not a Project. (Public Works)**
- (c) Approval of a consultant master agreement with A-N West Consulting Engineers, for consultant services including engineering services for the rehabilitation of storm pump stations and an analysis of North San José sub-watershed areas, for the period from the date of execution through December 31, 2010, in a total amount not to exceed \$200,000. CEQA: Not a Project. (Public Works)**

Documents Filed: Three memoranda from Director of Public Works Allen, dated May 22, 2006, recommending approval of the three consultant master agreements.

Action: The Master Agreements with Schaaf & Wheeler Consulting Civil Engineers, with OC Consultants, dba as Olivia Chen Consultants, and with A-N West Consulting Engineers, for the specified projects, were approved. (11-0).

- 2.20 Report on bids and award of contract for the Willow-Union Trunk Sewer Project to the low bidder, Michels Corporation dba Michels Pipeline Construction, in the amount of \$1,188,659, and approval of a contingency in the amount of \$119,000. CEQA: Exempt, File No. PP 05-223. Council District 9. (Public Works)**

2.20 (Cont'd.)

Documents Filed: Memorandum from Director of Public Works Allen, dated May 22, 2006, recommending award of contract.

Action: The award of the contract to the low bidder, Michels Corporation dba Michels Pipeline Construction, with specified contingency, was approved. (11-0).

2.21 Approval of fiscal actions related to the Towers Lane Improvement Project.

- (a) **Approval to increase the contingency budget for the Towers Lane Improvement Project by \$23,500 from \$94,000 to \$117,500.**
- (b) **Approval of Contract Change Order No. 2 with DeSilva Gates Construction, LP, for the Towers Lane Improvement Project in the amount of \$24,524 increasing the total contract amount from \$718,828 to \$743,352.**

CEQA: Exempt, PP 02-03-046. Council District 7. SNI: West Evergreen. (Public Works/Transportation)

Documents Filed: Memorandum from Director of Public Works Allen and Director of Transportation Helmer, dated May 22, 2006, recommending approval of the fiscal actions related to the Towers Lane Improvement Project.

Action: The fiscal actions related to the Towers Lane Improvement Project were approved. (11-0).

**2.22 Approval of the Bay 101 Conditional Approval of Stock Transfer relating to the reports from Kafoury, Armstrong & Company, LLP, date ending December 31, 2005. (City Auditor)
(Rules Committee referral 6/7/06)**

Documents Filed: Memorandum from City Auditor Silva, dated June 6, 2006, recommending approval of the stock transfer.

Action: The Bay 101 Conditional Approval of Stock Transfer was approved. (11-0).

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – May 31, 2006 Vice Mayor Chavez, Chair

Documents Filed: The Rules Committee Report, dated May 31, 2006.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review June 13, 2006 Draft Agenda
 - (a) Adds to the June 13, 2006 Draft Agenda

The Committee approved the June 13, 2006 City Council Agenda with seven additions. In addition, the Committee discussed the Planning Commission interviews. Vice Chair Campos pointed out that all ten of the applicants are male and expressed concern that there were no female applicants. Brief discussion ensued regarding outreach efforts and options relating to postponing interviews and selection for purposes of conducting expanded outreach. City Attorney Richard Doyle agreed to come back to the Rules Committee in one week with options available to the Council should it decide to extend terms and/or defer any of the appointments.

- (2) Add New Items to June 6, 2006 Agenda
 - (a) Mayor and Councilmember Requests
 - (b) Council Appointee Requests
 - (1) Resolution of support for the Marine Life Protection Act. Attachment: Memoranda from Council Member Campos, dated May 25, 2006, recommending passage of a resolution supporting the Marine Life Protection Act; and recommending adoption of a resolution supporting AB 2634 to increase the supply of extremely low-income and supportive housing in California.

The Committee approved two additions to the June 6, 2006 City Council Agenda. The Committee considered and deferred the addition of a resolution of support for AB2634. The resolution of support for the Marine Life Protection Act was heard at 6/6/06 Council Meeting, Item 3.6.

- (3) List of Reports Outstanding

The Committee accepted the report.

3.2 Report of the Rules Committee – May 31, 2006 (Cont'd.)
Vice Mayor Chavez, Chair

(c) Legislative Update

(1) State

- (a) Update on Megan's Law Task Force Recommendations. Attachment: Information memorandum from Police Chief Davis and Director of Intergovernmental Relations Shotwell, dated May 22, 2006, updating Council on Megan's Law Task Force Recommendations.

The Committee accepted the report.

- (2) Federal - There were none.

(d) Meeting Schedules - There were none.

- (e) The Public Record. Attachment: Memorandum from City Clerk Price, dated May 25, 2006, transmitting items for the public record and administration for the period May 17-23, 2006.

The Committee noted and filed the Public Record.

(f) Appointments to Boards, Commissions and Committees

- (1) Appointments to the Airport Noise Advisory Committee. Attachment: Memorandum from Director of Aviation Sherry, dated May 25, 2006, recommending appointment of Mr. Xavier Campos and Mr. Yen Chen to the Airport Noise Advisory Committee.

There were none.

(g) Rules Committee Reviews, Recommendations and Approvals

- (a) Approval of Travel by Council Member Linda LeZotte to attend the League of California Cities Environmental Quality Committee Meeting in Sacramento, June 22, 2006. Attachments: (1) Memorandum from Council Member LeZotte, dated May 18, 2006, requesting authorization to travel. (2) Memorandum from City Clerk Price, dated May 22, 2006, summarizing the Travel Fund expenditures to date.
- (b) Recommendation that the Rules Committee drop the Call Center Information and Referral Services Audit from the City Auditor's Audit Work Plan. Attachment: Memorandum from City Auditor Silva, dated May 16, 2006, recommending that the Rules Committee drop the audit.

The Committee approved the requests.

3.2 Report of the Rules Committee – May 31, 2006 (Cont'd.)
Vice Mayor Chavez, Chair

(h) Open Forum

Bill Chew discussed his candidacy for Council District 3 and urged people to vote.

(i) Adjournment - The meeting was adjourned at 2:35 p.m.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and unanimously carried, the Rules Committee Report and the Actions of May 31, 2006, were accepted. (10-0-1). Absent: Yeager.

3.4 Interview 10 applicants and consider appointments to fill three terms ending June 30, 2010 and one unexpired term ending June 30, 2008. (City Clerk)

Documents Filed: (1) Memorandum from City Clerk Price, dated May 26, 2006, listing the ten applicants selected to be interviewed for the Planning Commission. (2) Memorandum from City Attorney Doyle, dated June 6, 2006, recommending consideration of information on Planning Commissioner terms and quorum requirements. (3) Letter from Helen Chapman, Chair of the Parks and Recreation Commission, dated June 12, 2006, supporting the reappointment to the Planning Commission of Commissioners Zito, Levy and Campos.

Council Member Campos abstained due to a potential conflict of interest (brother is an applicant).

The following ten applicants were interviewed by the Mayor and Council Members: Xavier Campos (Incumbent), District 5; Derrick Chapman, District 6; David Cohen, District 4; Bob Gill, District 7; Ashu Kalra, District 2; Mart Kamkar, District 10; Charles Lauer, District 1; Robert Levy (Incumbent), District 1; Tim Quigley, District 3 and Jim Zito (Incumbent), District 8. Applicants receiving six or more votes, or the highest number of votes over six, will be appointed to serve on the Commission.

Action: Incumbent Xavier Campos received nine (9) votes. Incumbent Jim Zito received six (6) votes. Each incumbent was appointed to serve an additional 4 year term (ending June 30, 2010). Applicants Ashu Kalra and Matt Kamkar each received six (6) votes, and the City Clerk was directed to conduct a random drawing of names to determine which candidate will serve a 4 year term and which will fill the unexpired term ending June 30, 2008. (11-0).

3.5 Adoption of Statements of Policy and City Council Questions related to the selection of new Directors of Parks, Recreation and Neighborhood Services and Planning, Building and Code Enforcement, in compliance with City Charter Section 411.1. CEQA: Not a Project. (Employee Services)

Documents Filed: Memorandum from Director of Employee Services Danaj, dated May 22, 2006, recommending adoption of statements of policy and questions.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle, and unanimously carried, the Statements of Policy and City Council Questions were adopted, in compliance with City Charter Section 411.1. (11-0).

**3.6 Approval of nominations to the San José Silicon Valley Workforce Investment Network Board. (Mayor)
(Rules Committee referral 5/31/06)**

Documents Filed: Memorandum from Mayor Gonzales, dated May 17, 2006, recommending approval of José Gonzalez, El Gallo Giro, and Brice Fukumoto, American Airlines, to serve on the Silicon Valley WIN Board of Directors.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle, and carried, the nominations to the Silicon Valley WIN Board of Directors were approved. (10-1. Noes: LeZotte.)

COMMUNITY & ECONOMIC DEVELOPMENT

**4.2 Report of the Driving a Strong Economy Committee – June 1, 2006
Council Member Williams, Chair**

Documents Filed: The Driving a Strong Economy Committee Report, dated June 1, 2006.

- (a) Update on Access San José and Team San José including the increased focus on booking local businesses at the Convention Center. (Convention and Visitors Bureau, Team San José, Office of Economic Development)

The Committee accepted the Staff report.

- (b) Update on City's Business Indicators. (Office of Economic Development, Redevelopment Agency)

Item dropped.

- (c) Vehicle Procurement Opportunities and Local Business Outreach. (Finance, General Services, Office of Economic Development)

The Committee accepted the Staff report.

**4.2 Report of the Driving a Strong Economy Committee – June 1, 2006 (Cont'd.)
Council Member Williams, Chair**

(d) Oral Petitions

Bill Chew, Candidate for District 3, reminded attendees about next week's election.

(e) Adjournment - The meeting was adjourned at 2:22 p.m.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez, and unanimously carried, the Driving a Strong Economy Committee Report and the actions of June 1, 2006, were accepted. (10-1). Absent: Yeager.

- 4.3 (a) Approval of the proposed Auto Row Strategy work plan in order to support existing and potential auto dealerships on Stevens Creek, Capitol Auto Row, and elsewhere in the City.**
- (b) Approval of the following appropriation ordinance amendments in the General Fund in order to fund consulting services for an urban designer and financial analyst for the Stevens Creek Auto Row Area Plan:**
- (1) Establish a Citywide appropriation for the Stevens Creek Auto Row Area Plan to the Office of Economic Development in the amount of \$135,000.**
 - (2) Decrease the Contingency Reserve by \$135,000.**

CEQA: Not a Project. Council Districts 1, 6, and 10. (City Manager's Office/ Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Office of Economic Development Krutko, Acting Director of Planning, Building and Code Enforcement Horwedel, and Budget Director Lisenbee, dated May 23, 2006, recommending approval of the workplan and appropriation ordinance amendments.

Director of Economic Development Paul Krutko presented an outline of the Auto Row Strategy.

Motion: Council Member moved approval of the Staff recommendation, with additional direction as outlined in "Action" below. Council Member Reed seconded the motion.

Council questions to Staff followed.

4.3 (Cont'd.)

Action: On a call for the question, the motion carried unanimously and the proposed Auto Row Strategy work plan was approved; Staff was directed to: (1) Add to the Working Group and Area Plan Group a representative from Council District Office 1 (Council Member and/or Designee); (2) Invite the Police Departments of the City of Santa Clara and City of San José to attend the working groups; (3) Return to Council in March 2007 with an update, including discussions with the County, and a mid-point check-in with the Driving a Strong Economy Committee; and [Ordinance No. 27775](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Monies in the General Fund for the Stevens Creek Auto Row Area Plan; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (10-0-1. Absent: Yeager.)

TRANSPORTATION & AVIATION SERVICES

6.3 Adoption of a resolution establishing an airline air service promotional fee-waiver incentive program to support the development of new air service at Norman Y. Mineta San José International Airport. CEQA: Resolution Nos. 67380 and 71451, PP 06-083. (Airport)

Documents Filed: Memorandum from Director of Aviation Sherry, dated May 26, 2006, recommending adoption of the resolution.

Public Comment: Bob Mark, Director of Marketing, San José Convention Bureau, spoke in support of the proposed actions.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and unanimously carried; [Resolution No. 73212](#), entitled: "A Resolution of the Council of the City of San José Establishing an Airline Air Service Promotional Fee-Waiver Incentive Program to Support the Development of New Air Service at the Norman Y. Mineta San José International Airport", was adopted, and Staff was directed to add the Silicon Valley Leadership Group and Team San José to the group providing strategic support in monitoring air service needs. Staff also asked to provide a brief information memorandum outlining the opportunities. (10-0-1. Absent: Yeager.)

6.4 Adoption of a resolution approving a Major Amendment to the Airport Master Plan for the Norman Y. Mineta San José International Airport to update development program objectives and facility improvement projects. CEQA: Resolution Nos. 67380 and 71451, PP 06-070. Planning Commission recommends approval (6-0-0). (Airport/Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Director of Aviation Sherry and Acting Director of Planning, Building and Code Enforcement Horwedel, dated, June 1, 2006, recommending adoption of the resolution. (2) Proof of publication of Notice of Public Hearing, executed May 14, 2006 and June 7, 2006, submitted by the City Clerk.

6.4 (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and unanimously carried, [Resolution No. 73213](#), entitled: "A Resolution of the Council of the City of San José Approving a Major Amendment to the Airport Master Plan for the Norman Y. Mineta San José International Airport to Update Development Program Objectives and Facility Improvement Projects", was adopted. (10-0-1. Absent: Yeager.)

6.5 **Public Hearing and upon its conclusion approve an ordinance establishing a Rule 20A Underground Utility District along Balbach Street from Almaden Boulevard to South Market Street, West William Street from the westerly end of the street to South Market Street, Pierce Avenue and West Reed Street from Almaden Avenue to South Market Street and Almaden Avenue from Viola Street to West Reed Street. CEQA: Exempt, PP06-050. Council District 3. SNI: Market/Almaden. (Public Works)** **(Deferred from 5/16/06 – Item 2.10)**

Documents Filed: Memorandum from Director of Public Works Allen, dated May 22, 2006, recommending conduction of the public hearing and approval of the ordinance.

Mayor Gonzales opened the Public Hearing and there was no testimony from the floor. Mayor Gonzales closed the Public Hearing.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and unanimously carried, and [Ordinance No. 27776](#): entitled: "An Ordinance of the City of San José Establishing a Rule 20A Underground Utility District Along Balbach Street From Almaden Boulevard to South Market Street, West William Street From the Westerly End of the Street to South Market Street, Pierce Avenue and West Reed Street From Almaden Avenue to South Market Street and Almaden Avenue From Viola Street to West Reed Street", was passed for publication. (10-0-1. Absent: Yeager.)

6.6 **Report on bids and award of contract for the Former FMC Site Clearing and Preparation Project to the low bidder, HSR, Inc., in the amount of \$1,003,180, and approval of a contingency in the amount of \$100,000. CEQA: Resolution Nos. 71716, 67380 and 71451, PP 06-008. (Public Works/Airport)**

Documents Filed: Memorandum from Director of Public Works Allen and Director of Aviation Sherry, dated May 22, 2006, reporting on bids and recommending award of contract.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and unanimously carried, the award of the contract to the low bidder, HSR, Inc., with the specified contingency, was approved. (10-0-1. Absent: Yeager.)

CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session action(s) of June 13, 2006:

A. Authority to Pursue Appellate Review in a Litigation Case:

Case Name: City of San José v. Operating Engineers Local Union 3

Adverse Party or parties: Operating Engineers Local 3

Substance of Litigation: An action for injunctive relief to prevent certain members from taking certain job actions.

Council Vote: Ayes: Campos, Chavez, Chirco, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.

Noes: None.

Disqualified: None.

Absent: None.

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

Tract	Location	Council District	Developer	Lots/ <u>Units</u>	Type	<u>Proposed Decision</u>
9694	Northwest corner King and Mabury Roads	4	KB Home South Bay	1 Lot/ 91 Units	SFA/MFA	Approve

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

Tract	Location	Council District	Developer	Lots/Units	Type
9813	S/S of Curtner Ave. 250' W of Joseph	9	Thieu Phan	6 Lots/5 Units	SFA
9825	SE corner Curci and St. Elizabeth Drives	6	Pinn Brothers	5 Lots/46 Units	SFA
9826	NE corner of E. Julian St. and No. First St.	3	Regis Homes	1 Lot/39 Units	MFA
9830	NW/S of Lewis Rd. 210' SW of Garden	7	Core Developers	81 Lots/80 Units	SFA/SFD

RECESS/RECONVENE

The City Council recessed at 5:49 p.m. from the afternoon Council Session and reconvened at 7:03 p.m. in the Council Chambers, City Hall.

Present: Council Members - Campos, Chavez, Chirco, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - None.

City Clerk Lee Price read the requests for continuance of the applications. Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and carried unanimously, the below noted continuances and actions were taken as indicated. (11-0.)

CEREMONIAL ITEMS

- 1.5 Presentation of a commendation to the Latino College Preparatory Academy Lady Eagles Softball Team for continuing to be undefeated during league play and becoming “Champions of the Christian Private School Athletic League”. (Campos) (Rules Committee referral 5/31/06)
Heard in the evening.**

Action: Mayor Gonzales and Council Member Campos recognized and commended the Latino College Preparatory Academy Lady Eagles Softball team for their outstanding accomplishments.

- 1.6 Presentation of a commendation to the Evergreen Valley Service Unit 2 Girl Scouts of Santa Clara County for their commitment to community service and leadership. (Cortese) (Rules Committee referral 5/31/06)
Heard in the evening.**

Action: Mayor Gonzales and Council Member Cortese recognized and commended the Evergreen Valley Service Unit 2 Girl Scouts for their dedicated community service and leadership.

GENERAL PLAN PUBLIC HEARINGS

10.2 Amendment for property located at 922 and 1080 North 7th Street and 999 and 1045 North 10th Street:

Tentative Denial of General Plan Amendment request to change the Land Use/Transportation Diagram designation from Light Industrial to High Density Residential (25-50 Dwelling Units/Acre) on an approximately 23-acre site located on several parcels on the westerly side of North 10th Street, and the easterly side of North 7th Street between Commercial and Hedding Streets approximately 900 feet northwesterly of Hedding Street (922 and 1080 North 7th Street and 999 and 1045 North 10th Street) in the City of San José. (Goodwill Industries, Owner/Charles W. Davidson Co., Applicant). CEQA: Incomplete. Director of Planning, Building and Code Enforcement and Planning Commission recommend denial. Planning Commission action deemed a negative recommendation pursuant to SJMC 18.08.100.

GP05-03-05 - District 3

Action: Continued to June 20, 2006.

10.3 Amendment for property located at 2080 and 2090 Oakland Road.

(a) Uphold the Mitigated Negative Declaration for a General Plan Amendment request to change the San José 2020 Land Use/Transportation Diagram designation from Heavy Industrial with Mixed Industrial Overlay on a 2.66-acre site located on the east side of Oakland Road, approximately 400 feet North of Rock Avenue (2080 Oakland Road). Planning Commission upheld the Negative Declaration. (4-0-1-1; Platten absent and Dhillon abstained).

(b) Tentative Denial of General Plan Amendment request to change the Land Use/Transportation Diagram designation from Heavy Industrial to Heavy Industrial with Mixed Industrial Overlay on a 2.66-acre site located on the east side of Oakland Road, approximately 700 feet south of Calle Artis (2080 and 2090 Oakland Road). (Cilker William H Et Al, Owner/Bible Way Christian Center, Applicant). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend denial. (4-0-1-1; Platten absent and Dhillon abstained).

GP05-04-03 – District 4

(Continued from 4/18/06 - Item 10.6)

Documents Filed: (1) Memorandum from Council Member Reed, dated June 12, 2006, recommending approval of the General Plan amendment from Heavy Industrial to Heavy Industrial with Mixed Industrial Overlay. (2) Memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated May 22, 2006, transmitting the Staff Report recommending no change to the existing Heavy Industrial designation. (3) Supplemental memorandum from Secretary to the Planning Commission Horwedel, dated June 6, 2006, transmitting letters from Margaret Bruce, Director of Silicon Valley

10.3 (Cont'd.)

Leadership Group, dated May 23, 2006; and from Paul Krutko, Director of Office of Economic Development, dated May 17, 2006. (4) Memorandum from Planning, Commission Secretary Horwedel, dated June 8, 2006, recommending adoption of a resolution upholding the Mitigated Negative Declaration for the General Plan Amendment request to change to Heavy Industrial with Mixed Industrial Overlay. (5) Letter from Kirsten Powell, Logan & Powell, LLP, dated June 9, 2006, supporting the General Plan Amendment request to change to Heavy Industrial with Mixed Industrial Overlay. (6) Letter from Pastor J. Alfred Smith, Jr., Antioch Baptist Church, dated June 13, 2006, supporting the General Plan amendment for Heavy Industrial with Mixed Industrial Overlay. (7) Letter from Ken Whelan, President of Jack Healey Insurance Agency, Inc., dated June 8, 2006, addressed to Tom Nickell, Mass Precision Sheetmetal, Inc., regarding increased hazards from adjacent church exposure. (8) Eleven letters of support, various dates in June 2006.

Acting Director of Planning, Building and Code Enforcement Horwedel presented an overview of the proposed industrial conversions.

Public Comments: Mayor Gonzales opened the public hearing. Gerry de Young, representing the applicant, spoke in favor of the General Plan Amendment. Jolie Houston, representing the Appellant, protested the negative declaration in support of denying the General Plan change. Kirsten Powell, the applicant, spoke in favor of the project and added that issues can be addressed.

Representatives from Mass Precision Sheetmetal, Matt Griffoni, Matthew Stucky, Len Bushnell, Ray Allen, Dan Heimann, Jim Moretti, Robert Grays, Tom Hickell, spoke in favor of maintaining the zoning heavy industrial and argued that the zone change to allow a church/daycare would compromise safety and result in an incompatible use.

André Walewski (representing Mel & Pat Schmuckes), Brian Mullins (representing the Boum Family); Kerri Hamilton (Berryessa Citizens Advisory Council), Margaret Bruce and Carl Gardino (SVLG), opposed the land use change.

Philip Bump (South Bay Labor Council), LouMeshia Williams, Al Davis, Pastor Janice Dace, and Dr. Oscar Dace, Pastor, (Bible Way Christian Center), Rev. Jeff Moore, Dr. Tony Williams and Reginald Swilley (Maranatha Christian Center), Walter Wilson, Dr. Willie Nutt (San José Word of Faith), Dennis Lowery (representing landowner Cilker), Bill Cilker (property owner), Kel Whisner (MacCal, Inc.), and Dr. J. Alfred Smith, (Pastor, Antioch Baptist Church), spoke in support of the land use change.

Bob Hines spoke on the issue, taking a neutral position. Mark Trout spoke off topic. Mayor Gonzales closed the Public Hearing.

10.3 (Cont'd.)

Extensive Council discussion ensued.

Motion: Council Member Reed, seconded by Vice Mayor Chavez, recommending Council uphold the Mitigated Negative Declaration for the General Plan Amendment request.

Council discussion continued.

Action: On a call for the question the motion carried, the Mitigated Negative Declaration was upheld, with the Resolution to be adopted under Item 10.9 on Council Agenda of June 20, 2006. (8-3. Noes: Chirco, LeZotte; Gonzales.)

Upon motion by Council Member Reed, seconded by Vice Mayor Chavez, Council Member Reed's memorandum dated June 12, 2006, was approved, and the General Plan Amendment change to Heavy Industrial and Mixed Industrial Overlay for subject site, was tentatively approved. (7-4. Noes: Chirco, LeZotte, Pyle; Gonzales.)

10.4 Amendment for property located at 1633 Old Oakland Road and 1040, 1060, and 1080 East Brokaw Road.

Tentative Denial of General Plan Amendment request to change the Land Use/Transportation Diagram designation from Industrial Park on 11.9 acres and Industrial Park with Mixed Industrial Overlay on 15.5 acres to Neighborhood/Community Commercial on 6 acres and High Density Residential (25-50 Dwelling Units/Acre) on 21.4 acres on an approximately 27.4-acre site located on several parcels on the southwest corner of E. Brokaw Road and Old Oakland Road (1633 Old Oakland Road and 1040, 1060, and 1080 East Brokaw Road). (Markovits and Fox, Inc., Owner/The Riding Group, Applicant). CEQA: Incomplete. Director of Planning, Building and Code Enforcement recommends denial. Planning Commission recommends continued processing of the application. (4-0-1-1; Platten absent and Dhillon abstained).

GP06-04-02 - District 4

Documents Filed: (1) Memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated May 22, 2006, transmitting the Staff Report and recommending: No Change to the existing General Plan land use designations of Industrial Park on 11.9 acres and Industrial Park with Mixed Industrial Overlay on 15.5 acres; and That the City Council initiate a General Plan amendment to change the existing General Plan land use designations to Combined Industrial/Commercial on the entire 27.4-acre site. (2) Memorandum from Planning Commission Secretary Horwedel, dated June 1, 2006, transmitting the Commission's recommendation to continue processing the General Plan amendment request. (3) Letter from Mark Stoner, Lowe's Senior Real Estate Manager, dated June 12, 2006, expressing continued interest in the Markovits and Fox property. (4) Letter from Robert Manarino, Senior Vice President of Cousins Properties, dated June 9, 2006, expressing interest in the Knight-Ridder property.

10.4 (Cont'd.)

Acting Director of Planning, Building and Code Enforcement Horwedel and Economic Development Director Krutko outlined the Staff recommendation to deny the requested General Plan change, and responded to Council questions.

Public Comments: Eric Morley, representing the applicant, spoke in support of the General Plan amendment.

Kerri Hamilton (Berryessa Citizens Advisory Council); Dave Dollinger (Dollinger Properties); Carl Guardino (SVLG); and Shiloh Ballard (Housing Action Coalition), spoke in support of the amendment.

Brief period of Council questions and answer ensued.

Action: Upon motion by Council Member Reed, seconded by Vice Mayor Chavez, and unanimously carried, the Planning recommendation for continued processing of the application, was tentatively approved. (9-0-2. Absent: Nguyen, Yeager.)

THE GENERAL PLAN HEARUING WAS CONTINUED TO JUNE 20, 2006

PUBLIC HEARINGS ON CONSENT CALENDAR

- 11.1 (a) Consideration of an ordinance rezoning the real property located northwesterly of the intersection of Highway 237 and Union Pacific Rail line from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to modify the allowed uses consisting of an increase in the amount of River Commercial uses from 63,233 square feet to 88,233 square feet on a 70.5 gross acre site (San José Alviso Youth Foundation, Owner/Developer). Director of Planning, Building and Code Enforcement recommends approval. Planning Commission recommended approval (6-0-0) with the following conditions:**
- (a) Maintain a minimum of a 50 foot riparian setback; and**
 - (b) Ensure the project does not interfere with proposed bay trail. CEQA: Resolution No. 69392, File No. PDC99-044.**
- PDC03-024 - District 4**
- (b) Consideration of an ordinance rezoning the real property located at/on the northeast corner of Southwest Expressway and Fruitdale Avenue (1451 Fruitdale Avenue) (Daniel Hudson, et al, Owner; Hudson Companies, Developer) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow an increase in building height from 55 to 65 feet for a 91 unit single family attached residential project on a 1.87 gross acre site. CEQA: Negative Declaration PDC99-026. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**
- PDC06-049 - District 6**

Documents Filed: (1) Memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated May 22, 2006, transmitting the Staff Report. (2) Report of the Planning Staff, dated May 22, 2006, recommending approval of the requested zoning change. (3) Memorandum from Planning Commission Secretary Horwedel, dated June 6, 2006, transmitting the Planning Commission recommendation. (3) Proofs of publication of Public Hearing Notice, executed April 21, 2006; May 12, 2006, and June 2, 2006, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez, and carried unanimously, the recommendation of the Planning Director was approved, [Ordinance No. 27777](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated Northwesterly of the Intersection of Highway 237 and the Union Pacific Rail Line to A(PD) Planned Development Zoning District", and [Ordinance No. 27778](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northeast Corner of Southwest Expressway and Fruitdale Avenue (1451 Fruitdale Avenue) to A(PD) Planned Development Zoning District", were passed for publication. (11-0).

END OF PUBLIC HEARINGS CONSENT CALENDAR

PUBLIC HEARINGS

- 11.2 Consideration of a resolution to uphold an Appeal of the Planning Commission's decision to deny a Conditional Use Permit to allow the sale of alcohol (spirits, wine and beer) for off site consumption and for a public drinking establishment (wine and beer tasting) with an off site parking arrangement, and determination of Public Convenience or Necessity to allow the sale of alcohol for off site consumption, on the real property located on the west side of Lincoln Avenue, approximately 300 feet southerly of Willow Street (1133 Lincoln Avenue (Shirlee D. Schiro, Trustee and et al, Owner; Terra Industries, Bob Taylor, Developer). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends to uphold appeal to approve.**
CP05-068 & ABC06-004 -District 6

Documents Filed: (1) Memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated May 25, 2006, recommending the City Council approve the subject Conditional Use Permit and make a Determination of Public Convenience or Necessity by finding that the required findings for a Determination of Public Convenience or Necessity can be made and that there is a significant overriding public benefit served by the proposed off-sale of alcohol. (2) Supplemental memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated June 9, 2006, transmitting three additional letters and adding a condition into the Draft Resolution regarding shopping cart management. (3) Memorandum from Council Member Yeager, dated June 12, 2006, recommending approval of CP05-068 and ABC06-004 and acceptance of the developer's offer to provide additional elements as part of the proposed rezoning. (4) Proof of publication of Public Hearing Notice, executed June 2, 2006, submitted by the City Clerk.

Council Member Yeager introduced his memorandum dated June 12, 2006, recommending approval with the additional elements the development has offered to provide as part of the developer's proposed rezoning, as contained therein.

Public Comment: Mayor Gonzales opened the public hearing. Steve McLaren, applicant and appellant (BevMo) of the Planning Commission's decision to deny, spoke in support of the Conditional Use Permit.

Marvin Bamburg, Tom Trudell, and Norma Ruiz (Willow Glen Business and Professional Association); Robert Valentine, Nader Hekmati, Steve Anderson, Mike Ferguson, Mary Kettmann, Sandra Douthit, Marie Anderson, Pierluigi Oliverio, David Douthit, and Michael Mulcahy spoke in support of the Conditional Use Permit.

Chris Justi, Doris Frank-Liu, Chuong Doan, Brian Lee, and Duane Echols, Willow Glen Liquors, Malish Macabee, and Ron LeBaudour spoke in opposition to the permit. Mayor Gonzales closed the public hearing.

Vice Mayor Chavez urged the owner to accept the Company's policies to sell no pornography on site. The BevMo representative concurred. City Attorney Richard Doyle explained that the City could not regulate, only encourage voluntary compliance.

11.2 (Cont'd.)

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez, and unanimously carried, the recommendation of the Planning Director was approved, and [Resolution No. 73215](#), entitled: "A Resolution of the City Council of the City of San José Approving a Conditional Use Permit and a Request for a Determination of Public Convenience or Necessity to Use Certain Real Property Described Herein for the Purpose of Off-Sale of Alcohol at an Existing Vacant Retail Establishment Located in the Lincoln Avenue Neighborhood Business District", was adopted. (11-0).

- 11.3 Consideration of an ordinance rezoning the real property located on the east side of Highway 101, at the western terminus of San Antonio Court (305 San Antonio Ct) (Degery Didier Trustee, Owner; Affirmed Housing Group, Danny Serrano, Developer) from R-1-8 Residential Zoning District to A(PD) Planned Development Zoning District to allow 86 affordable multi-family attached residential units on a 2.19 gross acre site. SNI: Gateway East. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommends approval. Planning Commission recommended approval with a reduction in the number of units from 86 to 50 (5-0-1).
PDC05-104 - District 5**

Documents Filed: Proof of publication of Public Hearing Notice, executed May 12, 2006, submitted by the City Clerk.

Action: This item was continued to June 20, 2006.

- 11.4 Consideration of ordinances rezoning the real property located on the South side of Fleming Avenue, approximately 1,032 feet southeast of Alum Rock Avenue (139 and 145 Fleming Avenue) (San José The Lord's Baptist Church and Parmer Inderjit S. and Kathy L., Owners), as follows:**
- (1) PDC05-061 – Planned Development Prezoning from Unincorporated County to the A (PD) Planned Development Zoning District to allow single-family detached residences on a 2.66 gross acres site.**
 - (2) C05-079 – Staff Initiated Prezoning from County to R-1-5 Residence Zoning District to allow single-family detached residential use on 0.22 gross acre site. Director of Planning, Building and Code Enforcement recommends approval. Planning Commission forwards no recommendation (3-2-1). CEQA: Mitigated Negative Declaration.
PDC05-061/C05-079 - District 5
[Continued from 12/13/05 – Item 11.1(a), et al., and 5/16/06 – Item 11.1(a)]**

11.4 (Cont'd.)

Documents Filed: (1) Memorandum from Director Haase, dated December 1, 2005, transmitting the Staff Report, dated November 30, 2005, recommending approval of the rezoning. (2) Supplemental memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated May 22, 2006, transmitting that Staff recommends that the Planning Commission recommend approval of the proposed rezoning to R-1-5 Single-Family Residence District on the 0.23 acre site as originally recommended, and approve the rezoning on the 2.7 gross acre site to A(PD) Planned Development with a maximum of 14 units and no public park. (3) Memorandum from Planning Commission Secretary Horwedel, dated May 25, 2006, stating that the Planning Commission motion to recommend that the City Council approve the project with 14 units and no park failed on a 3-2-1 vote; consequently, the item moves forward to the City Council with no recommendation from the Planning Commission. (4) Memorandum from Council Member Campos, dated June 13, 2006, recommending approval of the proposed Planned Development Rezoning with additions as noted in the memorandum. (5) Proofs of publication of Public Hearing Notice, executed November 25, 2005 and January 8, 2006, submitted by the City Clerk. (6) Binder of signed petitions in support of the subject project.

Motion: Council Member Campos moved approval of her memorandum dated June 13, 2006. Vice Mayor Chavez seconded the motion.

Public Comment: Mayor Gonzales opened the public hearing. Jim Sullivan, representing the applicant, spoke in support of the rezoning.

Wan Park, Jack Kim, Jennifer Lee, and Paul Moke (San José The Lord's Baptist Church), expressed support for the project. Julie Ramirez, Len Raminez, Tony Alexander, stated support, with consideration of park spaces.

Herminia Amaso, Ian Roberts and Jeff Roberts spoke in opposition stating traffic and density concerns. Mayor Gonzales closed the public hearing.

Action: On a call for the question, the motion carried unanimously, the recommendation of the Planning Director was approved, and [Ordinance No. 27779](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the South Side of Fleming Avenue, 1032 Feet North of Alum Rock Avenue to A(PD) Planned Development Zoning District", and [Ordinance No. 27780](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southerly Side of Fleming Avenue, 200 Feet Westerly of Neves Way to R-1 Residence Zoning District", were passed for publication. (11-0).

- 11.5 Consideration of an ordinance rezoning the real property located at the southeast corner of Southwest Expressway and Fruitdale Avenue (John T. Vidovich, et al., Owner) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to increase the number of attached residential units from 500 to 502, to eliminate 250,000 square feet of commercial (office and retail) to reduce the maximum amount of retail from 30,000 square feet to 29,225 square feet and to modify the development standards for a 12.7 acre site. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (7-0-0). Planning Commission recommended approval with a minimum of 50,000 square feet of retail (7-0-0). CEQA: Resolution No. 69886 and Addendum thereto. PDC05-095 - District 6
(Continued from 4/4/06 – Item 11.7, et al., and 5/16/06 – Item 11.2)**

Action: This item was continued to June 20, 2006.

- 11.6 Consideration of an ordinance rezoning the real property located on the west side of Oakland Road, approximately 550 feet north of Rock Avenue (2135 Oakland Road) (Dollinger Rock Associates, Andrea Rudolf, Owner) from IP Industrial Park Zoning District to A(PD) Planned Development Zoning District to allow up to 53 single family attached residences on a 2.82 gross acre site. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1). PDC05-113 - District 4**

Documents Filed: (1) Memorandum from Planning Commission Secretary Horwedel, dated May 4, 2006, recommending that the City Council approve the proposed rezoning as recommended by staff. (2) Proofs of publication of Public Hearing Notice, executed April 21, 2006 and June 2, 2006, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. Eric Schoennauer, representing the applicant, spoke in support of the proposed actions. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Reed, seconded by Vice Mayor Chavez, and unanimously carried, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 27781](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of Oakland Road, Approximately 550 Feet North of Rock Avenue (2135 Oakland Road) to A(PD) Planned Development Zoning District”, was passed for publication. (11-0).

TRANSPORTATION & AVIATION SERVICES

6.2 Acceptance of report and discussion relating to parking of vehicles displayed for sale on City roadways

- (a) Alternatives to San José Municipal Code Section 11.36.100(1) for the regulation of parked vehicles displayed for sale on public rights of way; and,**
- (b) Information from the Department of Transportation on vehicle counts and streets affected by cars displayed for sale on public rights-of-way.**

CEQA: Not a Project. (City Attorney's Office)

(Deferred from 5/23/06 – Item 6.5)

Heard in the evening.

Documents Filed: (1) Memorandum from City Attorney Doyle, dated May 19, 2006, recommending acceptance of the City Attorney's report, and discussion relating to parking vehicles displayed for sale on City roadways. (2) Memorandum from Council Member Campos, dated June 13, 2006, recommending Council direct the Department of Transportation to determine where it is appropriate to install "Time Limited" or No Parking" zones which have five vehicles or more on a City block displaying "For Sale" signage.

Council Member Campos moved approval of recommendations in her memorandum dated June 13, 2006. Vice Mayor seconded the motion. City Attorney Doyle advised Council to delete the reference to "five vehicles or more". Advice accepted.

Action: On a call for the question, the motion carried unanimously and the City Attorney's report, entitled: Regulation of Parked Vehicles Displayed For Sale on City Roadways, was accepted, and direction to the Department of Transportation to determine where it is appropriate to install "Time Limited" or "No Parking" zones in areas of San José, which have vehicles on a City block displaying "For Sale" signage, was approved. (11-0).

PUBLIC SAFETY SERVICES

8.1 Approval of ordinances related to Chapter 6.02 and 6.60 of Title 6 – Business Regulations.

- (a) Adoption of urgency ordinance and approval of a regular ordinance amending Chapters 6.02 and 6.60 of the San Jose Municipal Code:**

- (1) Amending Chapter 6.02:**

- (a) To add a new ground for denial, suspension or revocation of a license or permit when the licensee or permittee conducts the licensed or permitted business in a manner that creates or results in a public nuisance on or within 150 feet of the business premises;**
- (b) To amend two existing grounds for denial, suspension or revocation of a license or permit by extending the period for consideration of prior government action against the licensee or permittee to five (5) years;**

- 8.1 (a) (1) (c) create a new Part 1.5 relating to emergency action to abate imminent threats to the public health, safety or welfare; and,
(d) To move the provision relating to the opportunity to correct in non-emergency situations from Part 2 to Part 1.
- (2) Amending Chapter 6.60 to add an operating regulation and permit condition to the Public Entertainment Business Permit prohibiting the licensee or permittee from conducting the business in a manner that creates or results in a public nuisance on or within 150 feet of the business premises.
- CEQA: Not a Project. (Police/City Attorney's Office)
- (b) (1) Refer permitting issues as they relate to the Entertainment Permit and Conditional Use Permit (CUP) to the Counter to Council Task Force. Specifically, Counter to Council should study how to create a more user friendly permit system, and study the feasibility of creating a searchable, user-friendly permit database of active and inactive licenses/permits that can notify permit/license holders to renew their permits/licenses.
- (2) Approve the framework for a Downtown Working Group to develop policy and operational strategies to address the following issues: Curfew, cruising, the concept of a 24 hour Downtown, event promotions, and large Downtown events (i.e., Cinco de Mayo, Bomb concerts, etc.).
- (Chavez/Urgency Ordinance Task Force)

Documents Filed: (1) Memorandum from City Attorney Doyle, dated June 1, 2006, recommending adoption of the urgency ordinance and approval of a regular ordinance. (2) Memorandum from Vice Mayor Chavez and the Urgency Ordinance Task Force, dated June 9, 2006, recommending urgency ordinance revisions and creation of a Downtown Working Group.

Urgency Ordinance Task Force members Dave Powell, Walter Wilson, Blage Zelalich (Deputy Director Downtown Association), and Rob Davis, spoke concerning the issue.

Public Comments: Wiggys Sivertsen encouraged citizen input.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and unanimously carried, the recommendations in the memorandum from Vice Mayor Chavez and the Task Force was approved; [Ordinance No. 27782](#), entitled: "An Urgency Ordinance of the City of San José Amending Chapter 6.02 of Title 6 of the San José Municipal Code by Amending Section 6.20.130 to Specify an Additional Ground for Denial, Suspension or Revocation of a License or Permit and to Modify Two Other Existing Grounds; Adding Section 6.02.160 Which Restates the Existing Opportunity to Correct Requirement; Adding a New Part 1.5 to Provide Summary suspension Procedures for Emergency Action to Abate Imminent Threats to the Public Health, Safety or Welfare; and Repealing Sections 6.02.240 and 6.02.250; and Amending Chapter 6.60 to

8.1 (Cont'd.)

Add Section 6.60.290 Prohibiting Public Nuisances On or Within One Hundred Fifty Feet of Public Entertainment Business Premises and Setting Forth the Facts Constituting the Urgency”, was adopted; and [Ordinance No. 27783](#), entitled: “An Ordinance of the City of San José Amending Chapter 6.02 of Title 6 of the San José Municipal Code by Amending Section 6.20.130 to Specify an Additional Ground for Denial, Suspension or Revocation of a License or Permit and to Modify Two Other Existing Grounds; Adding Section 6.02.160 Which Restates the Existing Opportunity to Correct Requirement; Adding a New Part 1.5 to Provide Summary Suspension Procedures for Emergency Action to Abate Imminent Threats to the Public Health, Safety or Welfare; and Repealing Sections 6.02.240 and 6.02.250; and Amending Chapter 6.60 to Add Section 6.60.290 Prohibiting Public Nuisances On or Within One Hundred Fifty Feet of Public Entertainment Business Premises”, was passed for publication. (11-0).

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 12:32 a.m. to consider Item 9.1 in a Joint Session.

9.1 Approval of actions related to the Strong Neighborhoods Initiative - Renewing the Action Agenda Framework.

- (a) Approval of actions related to the Strong Neighborhoods Initiative - Renewing the Action Agenda Framework**
- (b) Direction to take Building Strong Neighborhoods Committee beyond the redevelopment areas framework.**

[Building Stronger Neighborhoods Committee 4/17/06 - Item 4.1(c), et al 6/6/06 – Item 4.1(d)]

(Deferred from 6/6/06 – Item 9.1)

Documents Filed: Memorandum from Assistant to the City Manager Nader, dated June 6, 2006, presenting the Strong Neighborhoods Update report and request to take the Building Strong Neighborhoods beyond redevelopment areas framework.

Assistant City Manager Mark Linder presented an outline of the Strong Neighborhoods Initiative.

Brief Council discussion ensued.

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle, and unanimously carried, the actions recommended related to the Strong Neighborhoods Initiative was conceptually approved, subject to future appropriations by Council, and Staff was directed to provide an information memorandum to Council regarding evaluation of the process, including Redevelopment Agency areas being expanded or contracted. (11-0).

The Redevelopment Agency portion of the meeting was adjourned at 12:49 a.m.

OPEN FORUM

- (1) Mark Trout expressed personal religious views.

ADJOURNMENT

The Council of the City of San José adjourned at 12:50 a.m.

ATTEST:

LEE PRICE, M.M.C, CITY CLERK

smd/6-13-06MIN

Access the video, the agenda and related reports for this meeting by visiting the City's website at www.sanjoseca.gov/clerk/MeetingArchive.asp

JOINT REDEVELOPMENT BOARD/COUNCIL

The Joint Redevelopment Agency Board convened at 5:51 p.m. to consider Items 8.1, and 8.2 in a Joint Session.

8.1 Approval of clarifications to the High Rise Building Policy.

Adoption of resolutions by the City Council and Redevelopment Agency Board clarifying that the intent of the requirement for projects to obtain a building permit by June 30, 2006, under the high-rise residential incentive program for the downtown core is considered satisfied when the building foundation permit is obtained. CEQA: Resolution No. 64273, File No. PP04-224 [MERGED]

Documents Filed: Memorandum from Executive Director Mavrogenes and City Manager White, dated June 13, 2006, recommending adoption of the resolutions.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and carried unanimously, [Resolution No. 73216](#), entitled: “A Resolution of the Council of the City of San José Clarifying That the Intent of the Requirement for Projects to Obtain a Building Permit by June 30, 2006, Under the High-Rise Residential Incentive Program for the Downtown Core is Considered Satisfied When the Building Foundation Permit is Obtained” and Redevelopment Agency Resolution No. 5680, were adopted, and Staff was directed to: (1) In addition to looking at the current footprint, consider whether it is appropriate to expand; and the impact of that expansion; and (2) Look at the impact to the affordable housing supply Citywide, obtain feedback from the Affordable Housing Commission, including other affordable housing advocates in the process.(10-0-1. Absent: Yeager.)

8.2 Approval actions related to the lease of property located at 170 South Market Street to Bijan Bakery & Café.

- (a) **The City Council adopt a resolution accepting the summary of costs and findings of the Summary 33433 Report and the Estimated Reuse Valuation pursuant to the California Health and Safety Code Section 33433 for the lease of approximately 3,471 square feet at 170 South Market Street to Bijan Bakery, Inc., making certain findings and approving the lease; and,**
- (b) **The Redevelopment Agency Board approve a lease between Bijan Bakery, Inc. (Tenant) and the Agency (Landlord) for the property located at 170 South Market Street, for a ten-year term with two five-year options and a maximum of \$350,000 in Agency assistance for Tenant Improvements and a maximum of \$130,000 for Landlord Improvements.**

CEQA: Exempt, PP03-03-089 [SAN ANTONIO PLAZA]

Documents Filed: Memorandum from Executive Director Mavrogenes and City Manager White, dated June 13, 2006, recommending adoption of the resolution accepting the Summary 33433 Report and the Estimated Reuse Valuation, and approving a lease between Bijan Bakery, Inc., and the Redevelopment Agency.

8.2 (Cont'd.)

Action: Upon motion by Council Member Cortese, seconded by Vice Mayor Chavez, and carried unanimously, [Resolution No. 73217](#), entitled: “A Resolution of the Council of the City of San José Accepting the Summary of Costs and Findings of the Summary 33433 Report and the Estimated Reuse Valuation Pursuant to the California Health and Safety Code Section 33433 for the Lease to Bijan Bakery, Inc. of Approximately 3,471 Square Feet of Redevelopment Agency-Owned Retail Space Located at 170 South Market Street in the Fairmont Annex, Making Certain Findings and Approving the Lease”, was adopted. (10-0-1. Absent: Yeager.)

The Joint Redevelopment Agency Board/Council meeting adjourned at 5:58 p.m.